

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

HENRY JOHN PRIEN,

Appellant.

No. 37789-6-II

UNPUBLISHED OPINION

Hunt, J. – Henry John Prien appeals the trial court’s denial of his writ of habeas corpus request that the trial court quash an Idaho fugitive warrant. He argues that the trial court erred in finding the extradition documents sufficient to identify him (Prien) as the person named in the request for extradition because the headers on one of the supporting documents named a different person.¹ In a pro se Statement of Additional Grounds for Review² (SAG), Prien also argues that (1) his initial detention in Washington was unlawful; (2) he was denied effective assistance of counsel at the Idaho extradition proceeding; and (3) the judge who ruled on his habeas petition had a conflict of interest. We affirm.

FACTS

I. Idaho Warrant and Supporting Documents

In June 2007, the Idaho Commission of Pardons and Parole issued a fugitive warrant for Henry John Prien, Idaho Department of Corrections (IDOC) number 68313. In September 2007, the Idaho Governor issued a governor’s warrant for Prien. The application for requisition

¹ Prien also argues that the fact that he has already been transferred to Idaho does not render his appeal moot because it involves an issue of substantial public interest. Because on the record before us we are unable to verify Prien’s transfer to Idaho and because the trial court did not err in denying the writ, we do not address mootness or Prien’s substantial public interest argument.

² RAP 10.10.

supporting the governor's warrant stated that the warrant was for Henry John Prien and described his criminal conviction and the terms and conditions of parole that Prien had violated. The text of the document refers to Prien by name, without stating his IDOC identification number. But the headers on pages two to four of the application for requisition refer to "Dustyn M. Reinardy, IDOC #65675," rather than to Prien.

In addition to the application for requisition, the documents supporting the warrant included (1) Prien's judgment and commitment for the underlying offense; (2) an IDOC admission data summary form listing Prien's identification data, including a description of Prien's numerous tattoos, a copy of Prien's fingerprints, and photographs of Prien; (3) a parole violation warning letter to Prien; and (4) two parole violation reports for Prien. All of these supporting documents refer to Prien by name; many of them also indicate that Prien's IDOC number is 68313.

II. Petition for Writ of Habeas Corpus

On December 18, 2007, after being taken into custody in Washington,³ Prien filed a petition for writ of habeas corpus in the Clark County Superior Court. In his petition Prien argued that the documentation supporting the Idaho warrant was defective because (1) the affidavit supporting the governor's warrant lacked the Governor of Idaho's original signature; (2) the headers in the application for requisition referred to the wrong person and to the wrong IDOC number; and (3) the documentation did not comply with RCW 10.88.220⁴ because it did not accurately describe Prien. Prien did not assert that his initial detention was unlawful, claim that

³ Although Prien alleges that officers arrested him for "unlawful camping," nothing in the record indicates who took him into custody or why and when the arrest occurred.

⁴ Prien cited RCW 10.88.222 but likely intended to cite RCW 10.88.220.

the trial court had a conflict of interest, or allege that he had received ineffective assistance of counsel at the original extradition hearing.

On January 23, 2008, following a brief hearing, the trial court denied Prien's habeas petition and cleared him for release to Idaho authorities. Prien appeals the denial of his habeas petition.

ANALYSIS

Prien argues that (1) the trial court erred when it found that the extradition documents were sufficient to identify him (Prien) as the person named in the request for extradition because the headers in the application for requisition named a different person with a different IDOC number; (2) his initial detention was unlawful; (3) he was denied effective assistance of counsel at the extradition proceeding; and (4) the judge who heard his habeas petition had a conflict of interest. Prien fails to establish that he is entitled to relief on any of these grounds.

I. Error in Application for Requisition

When a trial court addresses an extradition warrant, "[t]he court

can do no more than decide (a) whether the extradition documents on their face are in order; (b) whether the petitioner has been charged with a crime in the demanding state; (c) whether the petitioner is the person named in the request for extradition; and (d) whether the petitioner is a fugitive."

White v. King County, 109 Wn.2d 777, 781, 748 P.2d 616 (1988) (quoting *Michigan v. Doran*, 439 U.S. 282, 289, 99 S. Ct. 530, 58 L. Ed. 2d 521 (1978)). Here, Prien challenges only the trial court's determination that he was the person named in the request for extradition.

Although the headers in the application for requisition named a different person with a

different IDOC number, the text of that document and every other document supporting the warrant make it abundantly clear that Prien was the person named in the request for extradition. Accordingly, the trial court did not err when it rejected this argument.

II. Statement of Additional Grounds for Review

The remaining three issues, (1) whether Prien's initial detention was unlawful, (2) whether he was denied effective assistance of counsel at the extradition proceeding, and (3) whether the trial court judge who heard the habeas petition had a conflict of interest, relate to matters that are outside the record, which we cannot address on direct appeal. *State v. McFarland*, 127 Wn.2d 322, 338 n.5, 899 P.2d 1251 (1995). Moreover, we previously addressed and rejected the first two arguments in his earlier personal restraint petition.⁵

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Houghton, P.J.

Bridgewater, J.

⁵ See Order Dismissing Petition, No. 37643-1-II (filed Oct. 23, 2008).